

# EXHIBIT 34

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK, et al.

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official capacity as  
SECRETARY OF THE U.S. DEPARTMENT OF  
HEALTH AND HUMAN SERVICES, et al.,

Defendants.

Case No. 1:25-cv-00196

**DECLARATION OF DR. ARTHUR MILLER**

I, Arthur Miller, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct:

1. I have personal knowledge of the facts set forth in this declaration, and if required to testify, would and could competently do so.

2. I submit this Declaration in support of the States' Motion for a Preliminary Injunction.

3. I am a retired Senior Research Engineer of the National Institute for Occupational Safety and Health (NIOSH), where I worked for fifteen years in the Spokane Research Lab in Spokane, Washington. I retired from my formal position at NIOSH three years ago, but I was working as a private consultant with the NIOSH Spokane Lab between my retirement and the termination of my consultant contract in February 2025. During my time at NIOSH, I led a number of different projects largely aimed at air quality and improving the health and safety of mine workers. At NIOSH, I authored over sixty publications in the areas of occupational safety and health in numerous medical and scientific journals, many focused on miner safety and air quality.

4. Given my senior role and extensive experience working within and with NIOSH, I believe I am very familiar with the operations, structure, and local impact of the NIOSH Spokane Research Lab.

5. Part of what drew me to NIOSH was the ability to use my experience and expertise for good. Prior to joining NIOSH, I worked as an aircraft mechanic and pilot, researched turbulence at the Technical University of Berlin, and spent nearly ten years in engineering and research with the United States Bureau of Mines in Minneapolis, Minnesota. I went back to school and received my doctorate in Mechanical Engineering from the University of Minnesota in 2005, where my research focused on diesel emissions and nanoparticle formation. I was thrilled to bring that research and engineering expertise to NIOSH, and especially the coal mining research and safety projects at the NIOSH Spokane Lab.

### **The Gutting of NIOSH**

6. NIOSH is the only federal agency responsible for conducting research and making recommendations for preventing work-related injuries and illnesses. The agency seeks to improve worker health and safety across all types of workplaces, including mines, fire departments, oil and gas wells, construction sites, factories, toxicology labs, shipyards, boats, small businesses, and hospitals. The agency conducts investigations of occupational health and safety concerns, often at the request of businesses and other organizations for free, researches occupational hazards, develops guidance to address those hazards, and provides graduate and post-graduate training on occupational health and safety through its Education and Research Centers. Its functions are enshrined in statutes like the Occupational Safety and Health Act, 29 U.S.C. §§ 669–71, among others. NIOSH employees are based primarily in research laboratories and offices in Cincinnati,

Ohio; Morgantown, West Virginia; Pittsburgh, Pennsylvania; Spokane, Washington; Washington, D.C.; Atlanta, Georgia; and Denver, Colorado.

7. When I retired three years ago, I quickly found out that NIOSH was not able to easily replace my experience and expertise. I then contracted with my old team to continue working with them as a consultant, because the NIOSH Spokane Lab had hired some new people and needed me to get them up to speed. I was performing these mentorship and training tasks, as well as other research tasks, in my consultant role until my contract ended abruptly in February of this year. I initially found out about the termination of my contract when I tried to open my government e-mail one day and could not access it. I wrote to one of my contacts at HHS as to whether my loss of access was a glitch or not, and was informed that all government contracts of my type were being cancelled. At the time, I only had \$1,000 left on my \$50,000 consulting contract.

8. On April 1, 2025, I became aware, both through news reports and conversations with my NIOSH colleagues, of reporting that the vast majority of NIOSH staff was being laid off (placed on administrative leave and then officially separated June 2, 2025) as a result of the HHS' "restructuring." This included most of my colleagues in the NIOSH Spokane Research Laboratory (SRL). I later became aware of additional reporting that on April 30, 2025, most of the remaining NIOSH employees were also being placed on administrative leave, to be officially separated July 2, 2025. The only employees remaining would be a scattered few in certain programs, such as the World Trade Center Health Program. The NIOSH SRL, for instance, as well as all mining research across NIOSH, would be shuttered.

#### **History and Function of the NIOSH Spokane Facility**

9. The NIOSH Spokane Research Laboratory opened in 1951 as a field location for the U.S. Bureau of Mines (USBM) Northwest Electro-development Laboratory in Albany, Oregon.

Increased mining activity at the deep underground lead and silver mines in the nearby Coeur d'Alene Mining District in northern Idaho made the Spokane location ideal for working with these mines while providing the infrastructure the facility would need to conduct its research. Early research at the facility focused on issues related to deep underground hard rock mining including developing better ground support technologies, waste disposal techniques, and prevention of rock bursts (rapid failure of rock structures in deep hard rock mines due to pressure exerted by the weight of the mountain). These topics expanded in 1977 with the passing of the Federal Mine Safety and Health Amendments Act which extended USBM's research mandate to all sectors of the mining industry. Work in this era included research on mobile roof support systems for underground coal mines and environmental work on issues like acid mine drainage.

10. In 1996, the USBM was closed by Congress, and many employees of the Spokane Research Lab were transferred to NIOSH. The focus of SRL's research also shifted to purely topics affecting health and safety of the nation's miners.

11. In 2015, the mining safety researchers at NIOSH Spokane were joined by the staff of the newly-formed Western States Division (WSD). WSD is headquartered at the SRL, but also has staff at offices in Denver, Colorado and Anchorage, Alaska. The division focuses on occupational safety and health issues primarily in the Western United States through research conducted under programs focused on (1) oil and gas extraction, including silica exposure assessment and control, hydrocarbon gas and vapor exposure associated with manual tank gauging, motor vehicle safety, and developing an industry-specific workplace fatality surveillance system; (2) maritime safety and health, including fatal and nonfatal traumatic injury analysis, cumulative musculoskeletal injuries in commercial fishing and seafood processing, design of engineering interventions to prevent winch entanglements on commercial fishing vessels, analyses of factors

associated with vessel casualties and disasters, and identification of relevant prevention strategies, and assessment of exposures associated with coatings removal methods in shipyards; and (3) Western Region outreach and epidemiology, including programs on wildland firefighting, aviation safety, and health.

12. In 2016, the Spokane Mining Research Division (SMRD) initiated the Miner Health Program. This program was established to conduct research related to miner health and workplace exposures, understand the role of work and non-work factors, and transfer findings to the mining community. The addition of public health and medical staff to the division, along with a newly constructed industrial hygiene laboratory, were important steps toward the goals of understanding miner health risk factors and improving their ability to maintain their health while working and in retirement. Until last month, current research under this program included developing interventions to monitor and mitigate heat stress and fatigue and studying miner health and occupational exposure data to target future efforts.

### **Impacts to Washington of Losing NIOSH**

13. NIOSH is the only government agency statutorily authorized to conduct workplace health and safety research. Other government agencies do not have the ability (expertise, unique facilities, established partnerships) to take on the vast majority of NIOSH's work. Losing NIOSH would likely mean the end of these critical programs.

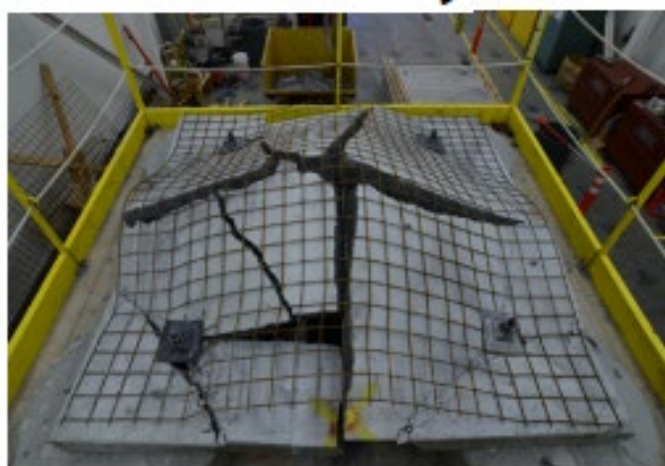
### **Mining Safety and Miner Health**

14. The work of NIOSH's Spokane Research Laboratory is critical to miner safety and health. It is the home and only location for the Spokane Mining Research Division. The SMRD is relied on by surface and underground mines in the United States. to conduct research on a variety of mining safety and health topics. SMRD focuses research efforts on hardrock mines (but also

has several research projects with coal mines) and has many research partners in the western United States. Aside from the NIOSH facility in Pittsburgh (also closing as a result of the HHS reductions in force), it is the only facility of its kind doing this type of specialized research.

15. In order to carry out its unique mining research functions, the NIOSH Spokane Research Lab houses specialized machinery, most of which take at least a year of training in order to safely operate. This includes specialized equipment like (1) a large heat stress chamber designed for voluntary human subject research; (2) a network of seismic sensor arrays designed to provide seismic monitoring for mines, widely distributed throughout the region and some of which is located on private property; (3) large equipment testing support structures in mines to prevent mine collapse; and (4) large scale direct shear test frames designed to test soil and rock samples, simulating ground stresses to test a sample's strength characteristics.

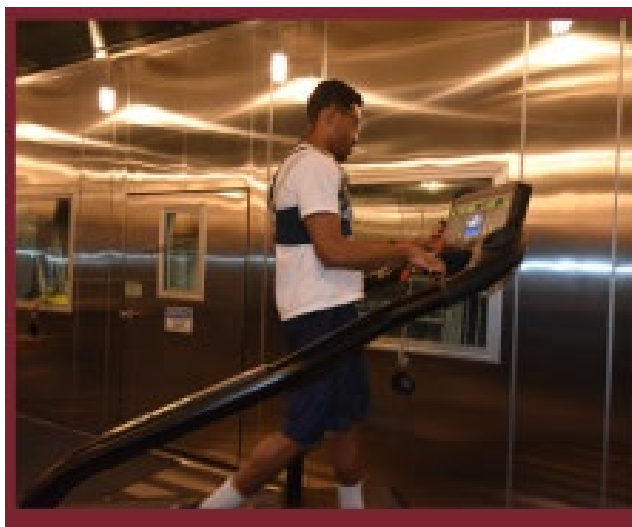
16. Some of this equipment, like the machinery used to test the strength and deformation characteristics of a combination of mine structure support types (bolts, steel mesh, and shotcrete) is incredibly large, immobile, and built directly onto the foundation of the NIOSH Spokane building:<sup>1</sup>



---

<sup>1</sup> *Spokane Mining Research Division, National Institute for Occupational Safety & Health, CDC (June 2022), [https://stacks.cdc.gov/view/cdc/118353/cdc\\_118353\\_DS1.pdf](https://stacks.cdc.gov/view/cdc/118353/cdc_118353_DS1.pdf).*

17. Similarly, NIOSH Spokane's large and immobile environmental chamber can use various temperature and humidity settings to simulate mining conditions to study health effects such as heat stress:



This data has been used in multiple studies and informs rules and regulations concerning miner safety—including several fact sheets that offer science-based practical information about working in hot mining conditions.<sup>2</sup> The laboratory also contains an industrial hygiene setting that prepares and analyzes field samples to understand and characterize exposure to respiratory and other health hazards.

18. Without trained personnel, the specialized equipment and machinery at the NIOSH SRL will be rendered inoperable. As noted above, this machinery is largely immobile and could not be sold or transferred in its current form without being destroyed. Even in some equipment could be partially dismantled, much of this laboratory technology, being unique to mining research, cannot simply or easily be resold or transferred; the mining industry simply does not seem to place the same value on large-scale mining safety research as NIOSH did. If the NIOSH

---

<sup>2</sup> T. Victoroff & K. Yeoman, *Mining Product: Heat Stress: A Series of Fact Sheets for Promoting Safe Work in Hot Mining Settings*, National Institute for Occupational Safety & Health, CDC (last updated June 28, 2024), <https://www.cdc.gov/niosh/docs/mining/works/cover-sheet1943.html>.



layoffs become final, and the NIOSH SRL is shut down, this machinery and technology will have to be demolished, their functionality lost, and their ability to produce industry-critical research findings permanently lost.

19. Even the off-site technology requires trained personnel from NIOSH Spokane for maintenance and reliable operation. For instance, NIOSH Spokane has installed a large network of specialized seismic sensor arrays (the Distributed Acoustic Sensing Array) that monitors seismic activity in the region and around mining sites, and feeds real time data back to the NIOSH Spokane Lab.<sup>3</sup>



NIOSH can then compile and provide data to help engineers better understand and manage rockburst and other risks. Without NIOSH operating as a central data hub, mine operators and miners are often in the dark on these types of seismic risks, as seismic monitoring is neither required nor common on a mine-specific basis. And in a state like Washington, with active

---

<sup>3</sup> Derrick Chambers, M.S. & Shawn Boltz, M.S., *The Sound of Rockbursts: A New Monitoring Approach for Longwall Coal Mines*, NIOSH Science Blog, CDC (July 7, 2023), <https://blogs.cdc.gov/niosh-science-blog/2023/07/07/rockbursts/>.

volcanoes and unique fault zones, having real-time seismic data is critical to ensuring regional mine safety.

20. NIOSH's off-site research is not limited to stationary equipment, however. NIOSH Spokane employees frequently visit mining sites across Washington and other states to collect data from both miners and mines alike. For instance, one of NIOSH Spokane's recent focuses has been on mining structural stability, including the effects of corrosion on bolts, mesh, and other support structures. NIOSH Spokane sends experienced teams with specialized equipment to test support structures in numerous mines and shares the resulting findings publicly for all:<sup>4</sup>



21. SMRD's research leads it into productive partnerships with the private sector. For instance, SMRD researchers recently identified the need for better dust control techniques at mine

---

<sup>4</sup> Amy J. Chambers, *Corrosion in Underground Metal Mines*, NIOSH Mining Program, CDC, <https://www.mtech.edu/mwtp/presentations/docs/amy-chambers.pdf> (last visited May 6, 2025).

sites that employ crushers, shakers and conveyors to process ore. They collaborated with two industry partners (Benetech Inc. and Central Premix) to design, build and deploy a “hybrid dust control system that proved to reduce airborne silica dust by 93% at a mine site near Spokane, Washington. SMRD’s research has also resulted in the launch of several mining safety products. For instance, NIOSH Spokane developed Ground Support Factor of Safety Calculator software,<sup>5</sup> which determines the deadweight factor of safety for an underground mining excavation’s ground support design based on user inputs and established methods. NIOSH has also developed open-source software libraries to automate and improve analysis of seismic data related to the effect of mining on ground stability, and released them for free.

22. In addition to laboratory and field research, the SMRD also manages the Miner Health Program, a long-term, systematic effort to understand and improve the health and well-being of all miners. It supports this effort not only through integration of research, active collaboration with the mining community, and data transfer, but through a number of miner-focused programs such as the mobile surveillance programs, where NIOSH workers travel to different mining or mining-adjacent sites and test for common diseases like black lung. Aside from the mobile surveillance program offered by NIOSH, I am unaware of any other program that tracks the prevalence of black lung and other respiratory diseases in miners at such a scale, either regional or national.

23. The loss of the NIOSH mining safety research and programs would come at a critically inopportune time, as the Administration is implementing the President’s Executive Orders calling for increased domestic coal mining, oil and gas extraction, and rare earth mineral

---

<sup>5</sup> S. Warren, et al., *Mining Product: Ground Support Factor of Safety Calculator*, National Institute for Occupational Safety & Health, CDC (Oct. 2020), <https://www.cdc.gov/niosh/docs/mining/works/coversheet2163.html>.

mining. Mining is a dangerous job—dozens of Washington miners have died in coal mining disasters, including the Roslyn No. 1 Mine explosion in 1892 and the Blue Canyon Coal Mine explosion in 1895. Aside from the real risk of explosions and cave-ins, mining also has a high prevalence of occupational respiratory and other types of disease, as workers are frequently exposed to coal mine dust, other chemical and respiratory hazards, and excessive noise. As a result of the reductions in force, NIOSH will not be able to conduct this important research or develop guidance to prevent and reduce these serious illnesses and injuries for miners—an area where NIOSH has produced hundreds of research articles, presentations, and industry guidance. The loss of the entire apparatus of mining research and miner health programs at NIOSH Spokane would undoubtedly put the health of our nation’s miners at great risk.

24. While Washington does not currently contain as many miners as other coal-heavy states such as West Virginia, there are still approximately 2,000 miners in Washington. Most of these are mines focusing on metallic and nonmetallic minerals, with newer mines focusing on extraction of gold, lead, zinc, magnesium, and aluminum. There is one operational gold mine in Okanogan County, the Buckhorn Mountain Gold Mine, though several others are permitted.

25. Coal has been mined in Washington since 1853, but as of 2007 there are currently no active coal mines in the state. Coal production in Washington hit a high in 2003 with an estimated total production of 6,232,000 short tons, but essentially paused when the Centralia Coal Mine in Lewis County shut down operations.<sup>6</sup> However, it is my understanding that there are currently plans to open new coal mines that draw on some of Washington’s numerous coal

---

<sup>6</sup> *Coal, Metallic, and Mineral Resources*, Washington State Department of Natural Resources, <https://www.dnr.wa.gov/programs-and-services/geology/energy-mining-and-minerals/coal-metallic-and-mineral-resources#:~:text=Coal%20production%20in%20Washington%20hit,northeastern%20portion%20of%20the%20state> (last visited May 6, 2025).

reserves, necessitating the employment of additional miners. I greatly fear for their safety if NIOSH's mining research is terminated.

**WSD's Impacts on Safety in Commercial Fishing, Shipyards, Oil and Gas Extraction, and Other Industries**

26. As noted above, the NIOSH Spokane facility also houses the NIOSH Western States Division. It is my understanding that all of the NIOSH employees working in the WSD will be separated in either June or July as a result of this reduction in force. Losing the WSD would be hugely detrimental to our region.

27. For instance, one WSD project, the NIOSH commercial fishing safety program, has been working for over 30 years to make commercial fishing safer. The program has worked in Alaska, Washington, Oregon, and the Gulf Coast in Southeastern states. The WSD maintains the Commercial Fishing Incident Database, which tracks commercial fishing fatalities and provides statistics by region, fishery, type of vessel, and type of incident. This is the only national source for a detailed breakdown of commercial fishing fatalities. Neither the Bureau of Labor Statistics nor the U.S. Coast Guard report this type of information. It is a unique function of NIOSH that will be lost with these reductions in force.

28. WSD research has resulted in the development of numerous techniques advancing the safety for commercial fishermen in our region. For instance, WSD developed engineering interventions to prevent winch entanglements on commercial fishing boats in the Pacific Northwest and Alaska, including commercial salmon boats, and also commercial shrimp boats in the southern coastal states from Texas to North Carolina. It's no small stretch to credit the techniques developed at NIOSH with saving fishermen's lives.

29. WSD is also a frequent collaborator with Washington tribal communities to improve tribal workplace safety. WSD has collaborated with the Columbia River Inter-Tribal Fish

Commission to prevent drownings among commercial fishermen along the Columbia River, promoting life jacket use among tribal fishermen. WSD had a project working with the Northwest Tribal Emergency Management Council to understand to assess mental and physical health issues among tribal emergency response workers in Washington, Oregon, and Idaho. After the reductions in force, all of its ongoing projects appear to be halted.

30. WSD also had active collaborations with naval shipyards at two sites in Washington to assess toxic inhalation exposures to workers applying and removing marine coatings from vessels: (1) the U.S. Navy's Trident Retrofit Facility near Bangor, Washington; and (2) the Puget Sound Naval shipyard. Without NIOSH workers, these assessments will not be completed, and NIOSH's expertise in finding and solving hazards within these workplaces

31. An extension of WSD shipyard research also applied to hydroelectric dams in Washington State. NIOSH recently had a scheduled field site visit (now cancelled) to evaluate toxic exposures from rehabilitation of hydroelectric turbines on the Snake River in Southeast Washington - specifically, the Little Goose Dam. This was in partnership with the U.S. Army Corps of Engineers. The project is now likely doomed.

32. NIOSH also regularly publishes evidence-based recommendations and trainings that ensure worker safety during oil and gas extraction. Over the years, NIOSH and its partners have completed numerous research projects to address safety and health issues in the oil and gas extraction industry. Projects cut across a number of important issues including motor vehicle safety, falls, fatigue, and health hazards such as silica, hydrocarbon gases and vapors, and noise. NIOSH publishes industry trainings and videos that have over 60,000 views, and maintains the Fatalities in Oil and Gas (FOG) database to better study the causes of deaths in oil and gas

extraction.<sup>7</sup> Without NIOSH, the industry is largely left to its own devices to research workplace safety and implement its findings—a task often at odds with maximizing profit.

### **Other Workplace Safety Impacts**

33. The impacts of NIOSH closing extend far beyond the industries that are the primary focus of NIOSH Spokane’s research efforts. For instance, NIOSH, including several employees in NIOSH Spokane, earlier this year published the draft version of a comprehensive hazard assessment on the impacts of exposure to wildland fire smoke among outdoor workers; NIOSH did so to solicit public comment before finalizing its industry-specific recommendations.<sup>8</sup> This assessment would have presented detailed findings of the relevant health effects of wildfire smoke and present evidence-based recommendations to protect outdoor workers, including farm workers, construction workers, oil and gas workers, park rangers, emergency responders, and others from the adverse health effects of occupational exposure to wildland fire smoke. If these employees are officially separated and their office is eliminated, this document will never be finalized, and I am aware of no other governmental agency that has the expertise or authority to finish such a document. This has an impact on outdoor workers in Washington as the document can be used to support and potentially make revisions to the Washington Smoke Rule.

34. The reduction in force across NIOSH is similarly delaying, and likely eliminating, the implementation of rules from other agencies relating to silica dust exposure. For instance, the Department of Labor’s Mine Health Safety Administration (MSHA), in partnership with NIOSH, was set to begin in April 2025 implementation of a rule regulating the time and amount, and

---

<sup>77</sup> *Oil and Gas Extraction Program*, NIOSH Research Programs, CDC (Mar. 15, 2024), <https://www.cdc.gov/niosh/research-programs/portfolio/oil-gas-extraction.html>.

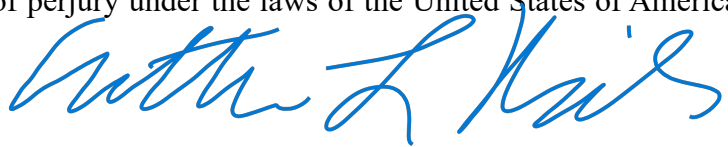
<sup>8</sup> *Draft Hazard Review: Wildland Fire Smoke Exposure Among Farmworkers and Other Outdoor Workers*, National Institute for Occupational Safety & Health, CDC, <https://www.cdc.gov/niosh/docket/review/docket352a/default.html> (last visited May 6, 2025).



required respiratory equipment, for miners working with toxic silica dust. Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection, 89 Fed. Reg. 28,218 (Apr. 18, 2024) (the Silica Rule). Now, due to what MSHA calls "the unforeseen NIOSH restructuring, and other technical reasons," namely the closure of the National Personal Protective Technology Laboratory (NPPTL) and its effect on "the supply of approved and certified respirators and personal dust monitors," MSHA announced it was postponing the compliance deadline for the Silica Rule until August 18, 2025. If the NPPTL remains closed (as it currently is after the reduction in force), I cannot see how this rule, or any rule that relies on NIOSH's extensive research into airborne silica dust, is ever implemented. This would greatly hinder efforts to adequately control silica exposure not just in coal or metallic/nonmetallic mines in Washington and elsewhere, but across a number of different workplace settings, including construction and factory work.

35. This Declaration covers only a small portion of the critically important research and services provided by NIOSH Spokane, and NIOSH as a whole. If the reductions in force are not reversed, workplaces in Washington and the rest of nation, especially those in mines, shipyards, and fighting fires, would be significantly more dangerous.

36. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



---

Dr. Arthur Miller

Date: May 7, 2025